

February 6, 2006

**1. Call to Order/Roll Call/Opening Ceremonies**

Chairman Teichert, with the assistance of Cub Scout Jeffery Champion, called the Regular Meeting of the Board of Selectmen to order on Monday, February 6, 2006 in the Selectmen's Conference Room - Town Offices at 7:00 p.m. Present at the meeting were Selectmen Hess, Lyman, Major, Vispoli, and Chairman Teichert. Also present was Town Manager Reginald S. Stapczynski, Town Clerk Randall Hanson and Cub Scouts from Pack 73, their leaders and parents.

Selectman Vispoli announced that this evening members of Pack 73 took a tour of the Town Offices, the Town vault and were given a good overview from Ms. Hanson, Town Clerk. They also met with the Andover Youth Council and were now at the meeting waiting to meet the Town Manager and the Selectmen. Mr. Stapczynski welcomed the scouts and presented them with a gift, a Home of America inscribed pencil. Before leading the Pledge of Allegiance, Selectman Vispoli introduced the following Cub Scouts and their leaders: Pack 6 - Andrew Hall, Jeffrey Champion, Jeffrey Page, Carter Schuh, Jack Merryfield, Amit Bhattacharjee and Leader Kathy Schuh and Pack 7 - Alex Aoun, John Romano, Joseph Romano, Kevin Vispoli, Matteo Napolitano and Leader Ann Vispoli.

Chairman Teichert called for a moment of silence during which time Selectman Vispoli asked to offer a special moment of silence for Peter Arthur, a social studies teacher at Andover High School that passed away this weekend. The Cub Scouts then led the pledge of allegiance to the flag. Roll call was taken at this time. Elizabeth A. Kochakian served as Recording Secretary. The meeting was duly posted and cablecast live.

**2. Communications and Announcements/Liaison Reports**

**Town Manager Buzz Stapczynski:**

- Town Manager Stapczynski announced that the Town Manager's FY07 Recommended Budget is out. He said the Finance Committee and Selectmen would be meeting jointly on Wednesday night at 7:00 p.m. in this meeting room to hear an overview of the budget and related warrant articles. On Monday, February 13, they will have the Department of Public Works and related DPW articles; on February 15<sup>th</sup> they will be hearing from Plant and Facilities and related P&F articles.
- The Planning Board will be meeting on February 14<sup>th</sup> at 7:00 p.m. to hear from Bob Halpern and Dennis Carbone to talk about the proposed interchange at I-93 in the Lowell Junction area. He said that Randy Hanson, Tom Urbelis, and he would be meeting at 6:15 p.m. with the newly formed I-93 Lowell Junction Task Force to go through their procedures.
- Last week the Lawrence Exchange Club honored local police officers and firefighters of the year. He was happy to announce that from Andover Patrolman Charles Edgerly was honored for all the work he has done with the boy scouts, the APD Explorer Program, Project Life Saver and a number of other out reach programs that he is involved with. The Manager said they also honored from the Andover Fire Department, Deputy Chief James Dolan. In September, Deputy Dolan was involved in saving a women's life in Lowell on the John Cox Bridge. He said that Deputy Dolan was jogging across the bridge and there was a woman ready to leap into the river and he was able to secure her there until other help arrived and they were able to bring her back to safety. He thanked both of them for being recognized by their peers.
- He announced that the Massachusetts Interlocal Insurance Agency (MIIA) gave them a grant recently for \$2,400 to do roadway workplace safety so that their men and women working on the roads will get additional training on how to be safe.

February 6, 2006 (Cont.)

2. Communications and Announcements/Liaison Reports (Cont.)

Town Manager Buzz Stapczynski (Cont.):

- The Department of Public Works is having a hearing in the Public Safety Center Training Room on Wednesday, February 8th to address the sidewalk projects that are slated for this upcoming construction season. Notices will be sent out and the work involves Chestnut Street from Bartlet to Morton; and, Whittier Street from Chestnut to Elm Streets.
- He has been asked by Andover Community Trust (ACT) to inform the Board and public that there are two houses that they will be having available for low/moderate income residence. A meeting will be held on February 15 at Memorial Hall Library and one on February 19 at 2:00 p.m. in Memorial Hall Library to go over the rules and regulations for being involved in the lottery for those two houses.
- On Friday the Manager said he attended a meeting with a number of his peers and with Lt. Governor Healy who made a presentation on the governor's budget for FY07. He said he had the opportunity to talk to her about local aid. They learned that the governor's numbers were a starting point and they will do their best to improve on them. The Manager said there were a large number of police chiefs, fire chiefs and public works officials and other elected officials from the immediate area there. He said they had very good opportunity to have an exchange with them.
- They received a correspondence from Bay State Gas telling them that they expect to have a cost decrease for their customers starting in February at 13%.
- On the upcoming election, Ms. Hanson reported that they do have candidates running and the last day for papers was tomorrow and at 5:00 p.m. She said they have some races in the Selectmen area, Housing Authority, and Greater Lawrence Voke School. She said that if people want to run for office they could come to her office tomorrow but that the deadline to register is 5:00 tomorrow afternoon.

Selectman Brian Major:

- Selectman Major said he met with the Lowell Junction Task Force and talked to them about a member for their newly formed I-93 Task Force. He said they would get a member soon; they are just trying to decide whom.

Selectman Alex Vispoli:

- Selectman Vispoli said that today, they kicked off the process for a potential bylaw for next year's town meeting with people from businesses, the Historic Commission, and Design Advisory Board. He said they are contemplating a design review concept for part of the town or business quarter, still to be determined. He said their charter is to come up with a proposal next year.

Selectman Ted Teichert:

- Selectman Teichert said Cub Scouts of Pack 77 from the West Elementary School and High Plain School came by today for a tour.
- Also, in the Board's packets, Chairman Teichert said they got a list of meetings and in particular a Tri-Board meeting on Thursday, March 2 and Budget Forum on Tuesday, March 14. He wondered if this okay with the rest of the Board.

February 6, 2006 (Cont.)

2. Communications and Announcements/Liaison Reports (Cont.)

**Selectman Ted Teichert (Cont.):**

- Selectman Major raised concern over having another meeting during that week with four already scheduled. After a discussion, it was the consensus to tentatively schedule the Tri Board meeting after the school budget is discussed on March 1. As to the budget forums, the Manager said in his budget he had two tentative dates for budget forums and felt this date would be better. He said it was not expected for the whole Board to be at the budget forum if they have a conflict.

3. Consent Agenda

A. Appointments and Re-Appointments

It was moved by Selectman Major that the Board approve the following appointment by the Town Manager:

DEPARTMENT	POSITION	RATE	EFF. DATE
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**COMMUNITY SERVICES**

Brittany C. Weeks	Sports Counselor - PT	C2A	10/5/05
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**TOWN CLERK**

Charles H. Heseltine	Pollworker - PT	\$7.00/hr.	2/7/06
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**MERRIMACK VALLEY REGIONAL TRANSIT AUTHORITY**

Paul Materazzo - Term to expire 6/30/06

(v. S. Colyer)

Lisa Schwarz - Alternate Member - Term to expire 6/30/06

**LOWELL JUNCTION INTERCHANGE TASK FORCE**

Douglas White - Term to expire 6/30/08

**CONSTABLE - Civil Process Only**

Pamela Bertheim - Term to expire 2/6/09

The motion was seconded by Selectman Hess, voted and approved 5-0.

B. Livery License

It was moved by Selectman Vispoli that the Board approve the request of Mary Spofford, 49 Prospect Street, Georgetown, MA, and Victor James, 82 Amherst Street, Lawrence, MA, d/b/a J and J Shuttle Service, Inc., 89 North Main Street, Andover, to increase their livery licenses from four to five. The new license will be effective from February 2006 through April 30, 2006. This request has been reviewed and approved by the Inspector of Buildings, Safety Officer and Town Clerk and is subject to the condition that all other requirements of the Town are met prior to the issuance of the license and that the vehicles used by this business will not be parked or stored at 89 North Main Street. Selectman Lyman seconded the motion. After a brief discussion, the motion was voted and approved 5-0.

**February 6, 2006 (Cont.)**

**3. Consent Agenda (Cont.)**

C. NIMS Resolution

The Manager reported that both the police and fire chief are involved in National Incident Management System (NIMS) as part of the Homeland Security effort. To receive any grants from the state and federal government they need to show that town officials, Selectmen and himself, have endorsed this requirement.

It was moved by Selectman Hess that the Board of Selectmen, Town Manager, Chief of Police, Emergency Management Director, and Fire Chief of the Town of Andover do hereby establish the National Incident Management System as the Town standard for emergency incident management. The motion was seconded by Selectman Lyman, voted and approved 5-0.

D. Art-in-the-Park

It was moved by Selectman Lyman that the Board approve the request of Diane Butler, President of the Andover's Artist Build, for permission to use The Park on Saturday, September 16, 2006 (raindate - September 17, 2006) for their Annual Art-in-the-Park. Arrangements have been reviewed and approved with conditions by the Police Department. The motion was seconded by Selectman Hess, voted and approved 5-0.

**4. Citizens Petitions and Presentations**

A. Helen Balboni

Helen Balboni, 16 Hall Avenue, appeared before the Board. She said her husband Charles Balboni is a justice of peace in the Town of Andover. He is currently in Afghanistan in the National Guard and his term is coming up. He needed to get an application signed by five people and one had to be an elected official. She was present before the Board to ask them as the elected officials of the Town to sign the document. The Board was happy to sign the document. Four Board members and Town Counsel signed the document. Selectman Major asked Ms. Balboni to thank her husband for his service to our Country.

Chairman Teichert opened discussion on the acquisition of Reichold, Inc. and vote to accept the easement access agreement. Town Counsel Tom Urbelis was present at the meeting and gave an update on where they are today. He said the Town is in the position of 98% to 100% in acquiring parts of Reichold property at 77 Lowell Junction. The Manager put up maps of the parcels for reference. Atty. Urbelis said that next week, Parcel 3 is going to the Conservation Commission and Parcel 2, which is property that has been cleaned to be used for purposes of sports fields to the Town.

**5. New Business (Cont.)**

A. Discussion on Reichold, Inc. & Acceptance of Easement Access Agreement (Cont.)

Atty. Urbelis said there are two items on the agenda for the Board this evening. The first is for the Board to accept the terms of the easement across some of the property retained by Reichold in order to access Parcel 3, which is the Conservation Commission's property.

February 6, 2006 (Cont.)

5. New Business (Cont.)

B. Discussion on Reichold, Inc. & Acceptance of Easement Access Agreement (Cont.)

The second is as required by a Town Meeting vote, was for the Town to hire an independent licensed professional to examine the parcels. That has been done. The Town hired the firm of Woodard and Curran, Inc. to do that. He said that David MacDonald, Vice President, was here tonight to tell the Board what he has done and to give the Board his opinions. Don Cooper, special attorney and member of the Conservation Commission, added that what also should be on the agenda tonight is for the Board to sign the document that states that the signatures will be held in escrow.

David MacDonald appeared before the Board and first thanked the Selectmen for having him here tonight. He said he sent a report out to the Board that they should all have; the report gave all that he knows about the site and his opinion. Mr. MacDonald said the Reichold property is segmented into three parcels, which have had different land histories. He said the piece not subject to discussion tonight, Parcel 1, on the Lowell Junction side of the river, was the main production facility for Reichold. That leaves them with Parcels 2 and 3. He said that Parcel 3 was really never used for any industrial processes that Reichold had. Despite that Reichold did a relatively extensive environmental review of the parcel and left them with some testing that confirmed that there are no problems there.

Mr. MacDonald said that Parcel 2 at one time in the past had held some water lagoons that were areas where they would hold discharge from the industrial areas. As a result of the lagoons, there was extensive investigation. What he did was to not only review the materials submitted to DEP but also engaged with Reichold consultants and looked at a lot of their field notes and memos and made sure he audited all of the information. Mr. MacDonald said he concluded that everything has been done in a way that renders the site safe particularly given the uses the town has in mind. He said he has no concerns with these two parcels.

Selectman Vispoli asked if they can use these ballfields without recapping them and if it will pass the state's standards today. Mr. McDonald answered that they absolutely would be able to use them without recapping. Selectman Vispoli also wondered if they could put sprinklers down. Mr. McDonald said they could but the Manager said under the AUL, for instance, they couldn't use groundwater on Parcel 2 for sprinkling. If they are going to use an irrigation system it has to be placed above a certain level or Mr. Cooper said it has to be approved by a licensed type professional, a person that holds a license by the state to work on hazardous site and Mr. McDonald is such a person.

Selectman Vispoli asked if they consider this a hazardous waste site. Mr. MacDonald said within the definition the state holds it is a site where there has been a release of regulated materials. However all of the materials they would be concerned about that would be present at dangerous levels have been removed. Selectman Vispoli asked if the Andover Board of Health Director rendered an opinion on this. The Manager said the new Director, Tom Carbone, has not. Selectman Vispoli said he would like to get a finding from him on this. Selectman Lyman asked Mr. MacDonald if he had any concerns about children playing on these fields. Mr. MacDonald said he absolutely had no concerns.

**February 6, 2006 (Cont.)**

**5. New Business (Cont.)**

C. Discussion on Reichold, Inc. & Acceptance of Easement Access Agreement (Cont.)

Selectman Hess asked if adults who might use it, pets, hikers, bikers, kids on regular bikes that might kick up the dust, people there cutting grass, picking up trash and workers, whether all of those types of uses are safe? Mr. MacDonald said he believed it was safe and he did not see anything in the testing results that would be of concern for any of the activities there listed. Selectman Vispoli asked Town Counsel if this meets the requirement of Town Meeting. Atty. Town Urbelis said he felt it did if the Board was satisfied with it. Selectman Vispoli asked when they could have the Town's Board of Health Director look at these parcels. Town Counsel was asked if they waited for that what would that have to do with the timetable. Atty. Urbelis said if that is what the Board feels comfortable with that they will have to live with that. Selectman Vispoli said he would like the Health Director to look at it. Selectman Lyman said she felt the report was very comprehensive and that a very thorough research has been done and that was sufficient for her. Don Cooper noted that Reichold thinks they are closing and being funded in the next couple of days. He can't tell the Board that it will be disruptive of the process to have another week's delay since they have not reviewed that with Reichold.

After a discussion, it was moved by Selectman Lyman that the Board approve the signing of the Purchase and Sale Agreement and to accept all the pertinent documents to accept the easement agreement and sign the deed and that the documents will be held in escrow until the Board receives an approval letter of no objection from the Director of Public Health. Selectman Major seconded the motion.

When asked, Don Cooper explained the access easement and passed out a handout of the area outlining the easements. He said the reason for the easement is that Parcel 3 is being acquired by the Conservation Commission. It is a right of access easement in their favor to pass over a portion of Parcel 1, 26 feet wide, with the right to pave it. Their performance obligation is that they need to put a gate with a lock and a fence from the railroad tracks down to the existing fence to keep people using the easement from entering Reichold's property. Town Counsel Urbelis said the access agreement looked fine with him.

After all discussion, the motion was voted and approved 5-0.

Chairman Teichert thanked everyone involved in this for doing a great job.

**6. Approval of Minutes from Previous Meetings**

It was moved by Selectman Hess that the Board approve the minutes of the January 10, 2006 - Special Meeting. Selectman Lyman seconded the motion. With no objections, the minutes were approved as written, 5-0.

It was moved by Selectman Major that the Board approve the minutes of the January 23, 2006 - Tri-Board Meeting. Selectman Hess seconded the motion. With no objections, the minutes were approved as written, 5-0.

It was moved by Selectman Hess that the Board approve the minutes of the Financial Planning Subcommittee meeting of January 11, 2006. The motion was seconded by Selectman Lyman voted and approved 5-0.

February 6, 2006 (Cont.)

7. Adjournment - 8:04 p.m.

Before adjourning, Selectman Vispoli asked if there was an update on the engineering services contract. Town Manager Stapczynski said he had spoken with Jack Petkus, Director of Public Works, and he said that Elaine Shola, Purchasing Agent, was reviewing the document in house now prior to it going out next week.

Selectman Hess asked if they want to have a report back from the Andover Housing Partnership Committee and at a joint meeting with the School Committee. It was the consensus of the Board to wait and do this at a meeting before Town Meeting in April.

With no further business, it was moved by Selectman Vispoli and seconded by Selectman Major to adjourn the meeting at 8:04 p.m. The motion was voted and approved 5-0.

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Elizabeth A. Kochakian  
Recording Secretary